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CONSUMER PRODUCT SAFETY COMMISSION RELEASES INTERPRETATION OF SECTION 1404 OF VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT

*All public pools and spas in the United States found to be non-compliant
may face up to \$1.8 million in fines and criminal penalties*

WASHINGTON DC – On June 18, 2008, the Consumer Product Safety Commission (CPSC) released its guidance document that outlines the technical requirements of Section 1404 of the Federal Virginia Graeme Baker Pool and Spa Safety Act, along with CPSC staff responses to enforcement and legal issues. This Federal act preempts all state laws.

The Act was signed into law by the President on December 19, 2007. Named after the daughter of Nancy Baker and the granddaughter of former Secretary of State James Baker, Graeme died in a tragic incident in June 2002 after the suction from a spa drain entrapped her underwater. This Act was first introduced by Rep. Debbie Wasserman-Schultz (FL) and was supported by the Baker family and Safe Kids Worldwide.

"The Virginia Graeme Baker Pool and Spa Safety Act was a necessary step toward eliminating the risk of entrapment in pools and spas around the country," said Paul Pennington, founding member of the Pool Safety Consortium. "Unfortunately, there continues to be a shocking number of child deaths and injuries resulting from suction entrapment. Therefore we must continue to develop Federal and state legislation in support of pool and spa safety."

The Act required various layers of protection, one of which included anti-entrapment drain covers.

According to the Act, public pools and spas, including those with multiple drains, in the U.S. must be equipped with anti-entrapment drain covers compliant with ASME/ANSI A112.19.8 performance standards. Additionally, in an effort to prevent hair entanglement, covers may not have a suction/flow of more than 1.5 cubic feet per second. If a pool or spa is not currently equipped with a compliant cover it must be retrofitted by December 18, 2008. Representative examples of compliant drain covers include: Drainsafe DS360 and Hayward Pool Products SP1153 AV/SP1154 AV. Non-compliant public pools and spas will not be permitted to open.

A public pool or spa is defined as one that it is either generally open to the public, or is open exclusively to any one of the following groups: members of an organization and their guests; residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area; or patrons of a hotel or other public accommodations facility.

In addition to the safety drain covers, public pools and spas with a single main drain, other than an unblockable drain, must be equipped at a minimum with one anti-entrapment device or system that complies with the ASME/ANSI standard 112.19.17 or ASTM International standard F2387, and any successor standards. Drain covers can become broken or deteriorated, which is why additional anti-entrapment safety devices are recommended, including:

1. **Safety Vacuum Release System (SVRS)** – Ceases operation of pump, reverses the circulation flow or otherwise provides a vacuum release at a suction outlet when a blockage is detected. It also must meet ASME/ANSI standard 112.19.17 or ASTM

International standard F2387. An SVRS can be installed in under an hour for about \$500 - \$700. Representative brands include Vac-Alert Industries, Stingl, Hayward Pool Products, and A.O. Smith Company.

2. **Suction-Limiting Vent System** – While not widely used, these systems introduce air into the suction line thus causing the pump to lose prime and relieve the suction forces at the main drain. The installation of this system will require a rebuild of the pool.
3. **Gravity Drainage System** – These have gained popularity in states such as Florida and are practical for new pool construction only. This device uses a collector tank with a separate water storage vessel from which the pump draws water. Water moves from the pool to the collector tank due to atmospheric pressure, limiting drain suction forces significantly.
4. **Automatic Pump Shut-Off System** – A device that senses a drain blockage and shuts off the pump system. Some SVRS devices may meet this definition. Currently there is no industry standard for automatic pump shut-off systems. However, the current SVRS standards provide release and response time of under three seconds.
5. **Other Systems** – Any other system determined by CPSC to be equally effective as, or better than, the systems described above. This will allow the development of future products.

Multiple Drains and Separate Pumps

While public pools and spas with multiple main drains are not subject to the requirements of Section 1404, it is widely known in the industry that multiple drains can still pose risks. For example, it is not uncommon for public pool construction to connect each drain to a separate pump, which creates multiple drains with suction forces capable of entrapping a swimmer. Additionally, it's not uncommon for one of the drains in pools with dual drains sharing the same pump to become blocked by debris, towels, pool toys, thus creating a potential entrapment on the remaining drain. Because of this, the Pool Safety Consortium recommends following the anti-entrapment recommendations of the CPSC for both single main drain and multiple main drain pools/spas.

According to the Act, the requirements stated in Section 1404 shall be treated as a consumer product safety rule under the Consumer Product Safety Act. Therefore, as of December 19, 2008 it will be illegal to manufacture, offer for sale, distribute or import a drain cover into the U.S. that does not meet the entrapment protection standards of ASME/ANSI A112.19.8. The maximum penalty for one or more related violations of this rule is currently \$1.825 million. However, Congress is considering legislation that would increase this penalty to \$10 million or higher. A violation could also result in criminal penalties, including fines or imprisonment.

For more information on the Virginia Graeme Baker Pool and Spa Safety Act or the CPSC staff interpretations, please contact the Pool Safety Consortium at 877-222-4289 or visit www.poolsafetyconsortium.org.

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The Pool Safety Consortium is a nonprofit organization based in Washington DC. Having began as an informative database for industry leaders and tradesmen providing current standards of international and state codes, it has since evolved into much more. Currently, the Consortium works to educate the consumer on current legislation as well as available safety devices to help protect children and the lives of others from swimming pool and spa tragedies.

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***Editors' Note:** The official CPSC staff interpretation document regarding Section 1404 of the Virginia Graeme Baker Pool and Spa Safety Act is available upon request.